

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MCNEIL,

Petitioner,

CIVIL ACTION

v.

No. 04-CV-5125

COMMONWEALTH OF PA, et al.,

Defendants.

ORDER

AND NOW, this 16th day of August, 2005 upon consideration of the Report and Recommendation filed by United States Magistrate Judge Timothy R. Rice, to which no Objections have been filed, and upon careful and independent review of the petition for writ of habeas corpus, it is hereby ORDERED that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**.
2. The petition for a writ of habeas corpus is **DISMISSED** without prejudice.
3. There is no probable cause to issue a certificate of appealability.
4. The Clerk of Court shall mark this case closed for statistical purposes.

BY THE COURT:

s/

CLIFFORD SCOTT GREEN, S.J.